

LAW OFFICES
HARTMAN & WINNICKI, P.C.

Dariusz M. Winnicki *^o
Richard L. Ravin *^o
Daniel L. Schmutter*
Andrew T. Wolfe*

74 PASSAIC STREET
RIDGEWOOD, NEW JERSEY 07450

Phone: (201) 967-8040
Fax: (201) 967-0590

* * *

WEBSITE

www.hartmanwinnicki.com

Porter E. Hartman (1920-2009)
Charles R. Buhrman (1938-1994)
William T. Marsden (1943-1993)
Cyrus D. Samuelson (1911-1998)

December 6, 2021

VIA ECF

Hon. Paul G. Gardephe, U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square, Room 2204
New York, New York 10007

**Re: Everytown for Gun Safety Action Fund, Inc. v. Defcad, Inc., et al.
Civil Action No. 21-cv-8704 (PGG)**

Dear Judge Gardephe:

We represent Defendants Defcad, Inc., Odysee User xYeexySZN, Defcad User xYeezySZN, The Catalog, Defcad User Freeman1337, Twitter User xYeezySZN, and Phillip Royster (“Defendants”) in the above-referenced matter.

We write to seek leave to file an oversized brief in opposition to the order to show cause seeking a preliminary injunction. We apologize to the Court for inadvertently have failed to seek leave prior to today.

Because the issues that must be addressed are numerous and complex, including essential threshold issues involving jurisdiction and venue, it would have been impossible for these Defendants to have filed a brief within the 25 page limit.

We also note that the brief was written in 14-point type instead of the required 12-point type. Therefore, in the correct point sized type the page length would be around 55 pages instead of 70 – still oversized and therefore requiring leave, but substantially less so.

We understand the concern expressed by the Plaintiff regarding their ability to reply timely by tomorrow and within the 10 page reply limit. Therefore we, of course, do not oppose the Court granting an increase in the permitted page length for Plaintiff’s reply brief, and we do not oppose, and in fact request, adjourning the hearing to December 16th to ensure that Plaintiff has sufficient time.

Separate and apart from other relief the Court may grant in this regard, if the Court would prefer we can refile the brief in the correct point size.

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Accordingly we again apologize for having inadvertently neglected to seek leave prior to today to file an oversized brief, and we request leave to do so and that the Court accept our brief as is, and further request that the hearing be adjourned to December 16 to accommodate the nature of the briefing.

Thank you.

Respectfully submitted,

/s/ Daniel L. Schmutter
DANIEL L. SCHMUTTER

DLS/srs

cc: Marcella Ballard, Esq. (via ECF and email)
Meaghan Kent, Esq. (via ECF and email)